GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Dr. Talluri Rajiv Samuel, Occ: Medical Officer and Sri Talluri Robin Deep S/o Subhakara babu R/o Godolu Village, Addateegala Mandal, East Godavari (D) under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)-Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the Proceedings in REV-CSECOVC (MIS)/3/2020-SA(C5)-CLO-EG dated:09-05-2021 of the District Collector, East Godavari District in cancelling the ST-Valmiki Caste Certificate of the Petitioners – Appeal Petition allowed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.31. Dated: 03.11.2021

Read the following:-

1. Proceedings of the Dist. Collector, East Godavari, REV-CSECOVC (MIS)/3/2020-SA(C5)-CLO-EG dt:09-05-2021 and the Gazette Publication dated:11.06.2021.
2. Appeal Petition filed by Dr. Talluri Rajiv Samuel, Occ: Medical Officer and Sri Talluri Robin Deep S/o subhakara babu R/o Godolu Village, Addateegala Mandal, East Godavari Dist.
3. Govt. Memo No.1468063/CV.2/2021, dt.04.08.2021.
4. From the District Collector, East Godavari, Lr.No.332792, dtd: 21.08.2021

<><><>

ORDER:

In the Proceedings 1st read above, the District Collector, East Godavari has issued orders cancelling the ST 'Valmiki' Community Certificate issued to Dr. Talluri Rajiv Samuel, Occ: Medical Officer and Sri Talluri Robin Deep S/o subhakara babu R/o Godolu Village, Addateegala Mandal, East Godavari.

2. Dr. Talluri Rajiv Samuel and Sri Talluri Robin Deep S/o subhakara babu has filed Appeal Petition before the Government against the Proceedings of the District Collector, East Godavari duly submitting grounds in support of their claim of ST 'Valmiki' Community and prayed to set aside the proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government while admitting the same, granted stay on the operation of the District Collector, East Godavari and have called for the Para-wise remarks on the grounds filed by the Appellant along with connected records from the District Collector in memo 3rd read above.

3. In the letter 4th read above, the District Collector, East Godavari has furnished para-wise remarks along with connected records on the Appeal Petition filed by Dr. Talluri Rajiv Samuel and Sri Talluri Robin Deep S/o subhakara babu.

4. The said Appeal Petition has been posted for hearing on 23.08.2021 before the Hon'ble Appellate Authority duly informing the same to the Appellant and the Counsel for the Appellant in the Memo 3rd read above. The appellants and their counsel have attended the said hearing on 23.08.2021. On perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant and the para-wise remarks submitted by the District Collector, East Godavari along with the proceedings of the District Collector, East Godavari, dated 09.05.2021, the Appellate authority has observed that;

I. The grounds put-forth by the appellant in support of his claim of ST 'Valmiki' community is as follows:

1. The order of the District Collector & District Magistrate is unsustainable in law and the same is liable to be set aside.

[Contd..]

2. The Collector & District Magistrate has failed to follow the mandatory requirement of giving an opportunity of making a representation i.e., showcause notice before passing the order of cancellation.
3. The Collector & District Magistrate failed to see that the appellants were brought up as schedule tribes and mere studies in the non schedule area is not a ground to cancel the ST caste status of the appellants.
4. The Collector & District Magistrate ought to have seen that the mother of the appellants have been living separately for the last 20 years from her husband and\ she is being transferred from one place to another due to her employment and therefore the appellants have studied their schooling and intermediate by staying in a hostel at Rajahmundry and because the appellants have studied in a plain area does not make a ground to cancel the ST caste status.
5. The Collector & District Magistrate ought to have seen that in the Gram Sabha conducted in Gondolu Village, majority of the villagers have informed that the appellants belongs to Valmiki ST Community.
6. The Collector & District Magistrate ought to have seen that status of schedule tribe of the appellants cannot be changed because of their studies in the plain area.
7. The Collector & District Magistrate ought to have seen that the appellants were brought up by their mother who is a schedule tribe and the appellants have been treated as schedule tribe Valmiki Community.
8. The Collector & District Magistrate merely followed the findings of the District Level Scrutiny Committee without application of mind and without judging the issue on merits and further the District Level Scrutiny Committee did not properly considered the documents produced by the appellants during the course of the enquiry.
9. The District Level Scrutiny Committee has to be constituted with Joint Collector as Chairman under Rule 8 of A.P (SC, ST & BCs) Regulation of Issue of Community Certificates Rules and in the instant case the project officer I.T.D.A has acted as Chairman of the D.L.S.C and has recommended for cancellation of the caste status of the appellants and therefore P.O, I.T.D.A cannot act as Chairman of District Level Scrutiny Committee and therefore the D.L.S.C proceedings are without jurisdiction and the same is liable to set aside and accordingly, the order of the District Collector is not sustainable in law.

II. The District Collector, East Godavari has furnished the following remarks on the above grounds as follows:

1. The contention of the appellants is not correct that the orders of Collector & District Magistrate is liable to be set aside, as the orders are issued after examination of the records and remarks produced by the Dist Level Scrutiny Committee only.
2. Alter conducting a personal hearing before the District Collector on 15.05.2021 and after hearing the arguments of the petitioners/respondents; the facts recommended by the DLSC for STs, East Godavari were considered as true and the ST-Valmiki caste status of Sri Talluri Rajiv Samuel & Talluri Robin Deep, who are the Sons of Talluri subhakara Babu and Kambham Hephzi Rani is liable for cancellation. Hence the contention is not true.
3. The cancellation orders issued not only basing on their brought up period in childhood, but also observed the Supreme Court Judgement in Rameshbhai Dabbai Naika v/s State of Gujarat and others (2012)3 SCC 400 held as follows:

   "in an inter-caste marriage or a marriage between a tribal and a non tribal there may be a presumption that the child has the caste of the father. This presumption may be stronger in the case where in the inter-caste marriage or a marriage between a tribal and a non tribal the

[Contd..]

husband belongs to a forward caste But by no means the presumption is conclusive or irrebuttable and it is open to the child of such marriage to lead evidence to show that he/she was brought up by the mother who belongs to the scheduled caste/schedule tribe. By virtue of being the son of a forwarded caste father he did not have any advantageous start in life but on the contrary suffered the deprivations, indignities, humilities and handicaps like any other member of the community to which his /her mother belonged. Additionally that he was always treated as a member of the community to which his/her mother belonged. Not only by that community but by people outside the community as well"

This judgment is communicated through the Government of Andhra Pradesh, in Social Welfare Department, Memo No. SWOCERT/121/ CV.1/2019, dated 25.10.2019.

4. As verified from the resolution of Grama Sabha also the appellants used to visit the Gondolu village during the holidays only. The appellants are not followers of tribal customs or tribal festivals.
5. The contention of the appellants is not correct. The District Collector has followed the due process of law. Examined the records thoroughly and conducted a personal hearing before the District Collector on 15.05.2021 and after hearing the arguments of the petitioners/ respondents, the above facts recommended by the DLSC for STs, East Godavari were considered as true and the ST-Valmiki caste status of Sri Talluri Rajiv Samuel & Talluri Robin Deep, Sons of Talluri subhakara Babu are liable for cancellation.
6. As per the G.O.MS.No.57, G.A. (Spl.A) Dept., Government of AP., dated 01.03.2014, the Project Officer, ITDA and Addl. Agent to the Government will be the Chairman of the DLSC in respect of Schedule Tribes for cancellation of certificates obtained fraudulently, as per the procedure laid down in the section 5 of AP SC ST BC Regulation of issue of Community Certificates Act 1993. Under the said provisions the DLSC was constituted with Project Officer ITDA as Chairman, vide Collector, EG Dist, Proceedings REVCSECOVC(MIS)/1/2019-SA-05-CLO-EG. Dated 30.7.20 19.

There are no tenable grounds in the appeal filed by the appellant against the orders of the Collector.

III. During the course of hearing of the case, the Appellate Authority has observed/opined that;

1. During the course of arguments, the appellants submitted arguments that mother belongs to Valmiki caste and brought up in the community as such the children also same community as such on that score alone they are ST Valmiki.

2. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record, it is noticed that admittedly the mother belongs to ST Valmiki Community and married man from other Community and by virtue of her employment she shifted to other place. The children are born to tribal mother and non tribal father and the circumstances of living the family at other place is that the mother being an employee only as such the social status of the children can be taken as tribal community basing on the community of the mother and in view of Grama Sabha resolution as the tribal community accepted the children belongs to tribal community.

[Contd..]

3. That taking consideration of the above and the material available on the record, it can be concluded that the lower authority failed to observe the finding of the concerned above and after careful examination of the appeal petition and the circumstances stated supra that in exercise of the powers conformed under the act and the rules, the appeal is hereby allowed filed by the appellant by upholding the children are schedule tribe (Valmiki) and the lower authority proceeding is to be set-aside and accordingly the same is hereby set aside.

5. Government, after careful examination of the appeal petition and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, hereby allow the appeal petition filed by Dr. Talluri Rajiv Samuel, Occ: Medical Officer and Sri Talluri Robin Deep S/o subhakara babu, R/o Godolu Village, Addateegala Mandal, East Godavari and the proceedings vide REV-CSECOVC (MIS)/3/2020-SA(C5)-CLO-EG dated:09-05-2021 of the District Collector, East Godavari District are hereby set-aside duly upholding the Scheduled Tribe (Valmiki) claim of the appellants.

6. The District Collector, East Godavari is directed to take necessary consequential action in the matter, accordingly.

7. The records (REV-CSECOMIS(MIS)/3/2020-SA(C5)-CLO-EG) containing pages (Vol.I. CF: 1 to 273 and Vol.II. CF-275 to 520) received from the District Collector, East Godavari through in the reference 4th read above, are returned herewith in original to the District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, East Godavari at Kakinada.(w.e)
(With original records) (BY RPAD)

Dr. Talluri Rajiv Samuel, Occ: Medical Officer
PHC, Tallapudi, West Godavari District.

Sri Talluri Robin Deep S/o subhakara babu
R/o Godolu Village, Addateegala Mandal,
East Godavari District.

Sri K. Venkatesh (2906)
H.No.1-1-180/23, 3rd Floor,
Opp: Sudarshan 35 mm Theatre,
RTC 'X' Roads, Hyderabad-20.

Copy to:
The OSD to Hon'ble Deputy CM(TW).
The PS to Secretary(TW).
Sf/Sc

// FORWARDED:: BY ORDER //

SECTION OFFICER